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8 Attorneys for Defendant  
8 CITY AND COUNTY OF SAN FRANCISCO

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11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA

13 KENNETH GREGORY,

14 Plaintiff,

15 vs.

16 CITY AND COUNTY OF SAN  
FRANCISCO,

17 Defendant.

Case No. C 09-1800 PJH

JOINT INITIAL CASE MANAGEMENT  
STATEMENT

Hearing Date: Aug. 20, 2009  
Time: 2:30 p.m.  
Place: Ctrm. 5, 17<sup>th</sup> Fl.

Trial Date: None set

20 The parties submit the following joint case management conference statement.

21 **1. Jurisdiction and Service**

22 Plaintiff has served the City and County of San Francisco, the only named defendant.

23 **2. Statement of Facts**

24 The City hired plaintiff as a Food Service Worker on December 7, 2006. Under the  
25 Memorandum of Understanding between plaintiff's union and the City, plaintiff served a six month  
26 probationary period, during which the City could release him from his position. On January 5, 2007,  
27 the City released plaintiff from his probationary position. It is the City's position that the City did so

1 because plaintiff committed various rule violations, including being rude to his supervisors. Plaintiff  
 2 claims that he was discriminated against on the basis of his race.

3           **3. Legal Issues**

4           a.       Whether Gregory can establish a *prima facie* claim of race discrimination or retaliation.

5           c.       Whether the City can demonstrate that it had legitimate non-discriminatory reasons for  
 6 the conduct Gregory challenges.

7           e.       Whether Gregory can show that the City's articulated reasons for its actions are a  
 8 pretext for discrimination.

9           h.       Whether Gregory suffered damages as a result of the City's allegedly unlawful conduct  
 10 and whether Gregory has mitigated his alleged damages.

11           **4. Motions**

12          The City anticipates bringing a motion for summary judgment or summary adjudication.

13           **5. Amendment of the Pleadings**

14          Plaintiff does not anticipate any amendment of the pleadings.

15           **6. Evidence Preservation**

16          The City has begun collecting evidence relevant to this case and has taken steps to preserve  
 17 evidence by placing a litigation hold on all relevant documents including electronically-stored  
 18 materials. The City has advised the relevant City departments and individuals of this litigation hold.

19           **7. Disclosure**

20          Initial disclosures are not yet due.

21           **8. Discovery**

22          The parties have not conducted any discovery to date. They anticipate the following discovery:

23           a. The City: Requests for production of documents and things; Special interrogatories;  
 24 Requests for Admissions; and Depositions of Plaintiff Gregory.

25           B. Gregory: *Interrogatories, Depositions*

26          The parties do not, at this time, request any increase or decrease in the limits of such discovery  
 27 other than those set forth in the Federal Rules of Civil Procedure and the Court's Local Civil Rules.

## 8. Class Action

This case is not a class action.

## 9. Related Cases

There are no related cases.

## 10. Relief

Plaintiff seeks the following relief: actual and special damages according to proof; emotional distress damages; and reasonable attorneys' fees and costs of suit.

## 11. Settlement and ADR

The parties have not yet chosen an ADR procedure. The City would agree to a settlement conference before a magistrate judge.

**12. Consent to Magistrate Judge**

The City has declined to consent to a magistrate judge.

### 13. Other References

None anticipated at this time.

#### **14. Narrowing of Issues**

The City believes that the issue in this case is already a narrow one, and that no further narrowing of the issues is necessary.

### **15. Expedited Schedule**

This case cannot be handled on an expedited basis.

## 16. Scheduling

The parties propose the following schedule:

Deadline to amend pleadings/join parties: September 18, 2009

Discovery cutoff: Feb. 26, 2010

Dispositive motion hearing: April 16, 2010

Expert disclosures: March 26, 2010

Expert discovery cutoff: May 14, 2010

**Pretrial conference:**

Trial: September 6, 2010

1           **17. Trial**

2           Plaintiff has demanded a jury trial. The parties estimate that trial will take approximately four  
3 days exclusive of empanelling a jury.

4           **18. Disclosure of Non-party Interested Entities or Persons**

5           The City is not required to file a "Certificate of Interested Entities or Persons" as it is a public  
6 entity and not subject to Civil Local Rule 3-16.

7           Plaintiff has not filed a statement of interested parties to date.

8           Dated: August 3, 2009

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10           DENNIS J. HERRERA  
11           City Attorney  
12           ELIZABETH SALVESON  
13           Chief Labor Attorney  
14           MARGARET W. BAUMGARTNER  
15           Deputy City Attorneys

16           By: /s/Margaret W. Baumgartner  
17           MARGARET W. BAUMGARTNER

18           Attorneys for Defendant  
19           CITY AND COUNTY OF SAN FRANCISCO

20           Dated: August 10, 2009

21             
22           Plaintiff Kenneth Gregory

## PROOF OF SERVICE

**Re:** *Gregory, Kenneth v. CCSF*  
USDC No. C 09-1800

I, BLANCA MARTIN, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the above-entitled action. I am employed at the City Attorney's Office of San Francisco, Fox Plaza Building, 1390 Market Street, Fifth Floor, San Francisco, CA 94102.

On August 11, 2009, I served the following document(s):

• JOINT INITIAL CASE MANAGEMENT STATEMENT

on the following persons at the locations specified:

Gregory Kenneth  
245 Broad Street  
San Francisco, CA 94110

in the manner indicated below:

**BY UNITED STATES MAIL:** Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

**BY PERSONAL SERVICE:** I sealed true and correct copies of the above documents in addressed envelope(s) and caused such envelope(s) to be delivered by hand at the above locations by a professional messenger service. A declaration from the messenger who made the delivery  is attached or  will be filed separately with the court.

**BY FACSIMILE:** Based on a written agreement of the parties to accept service by fax, I transmitted true and correct copies of the above document(s) via a facsimile machine at telephone number (415) 554-4248 to the persons and the fax numbers listed above. The fax transmission was reported as complete and without error. The transmission report was properly issued by the transmitting facsimile machine, and a copy of the transmission report  is attached or  will be filed separately with the court.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct. Executed August 11, 2009, at San Francisco, California.

Blanca Martin  
BLANCA MARTIN